

As a consumer of digital content, I have a grave concern about the proposed Broadcast Flag. I enjoy the flexibility and control that technology gives me. I can be more than a passive recipient of content; I can modify, create and participate. Technology currently gives me more choices by allowing me to record a television program and watch it later; clip a small piece of TV and splice it into a home movie; send an email clip of my child's football game to a distant relative; or record a TV program onto a DVD and play it at my friend's apartment. The broadcast flag seems designed to remove this control and flexibility that I enjoy.

Historically, the law has allowed for those not affiliated with creating content to come up with new, unanticipated ways of using it. For example, Sony invented the modern VCR -- a movie studio did not. (Sony did not own a movie studio at the time.) Diamond Multimedia invented the MP3 player -- a recording label did not. Unfortunately, the broadcast flag has the potential to put an end to that dynamic. Because the broadcast flag defines what uses are authorized and which are not, unanticipated uses of content which are not foreseeable today are by default unauthorized. If we allow the content industry to "lock in" the definition of what is and is not legitimate use, we curtail the ability for future innovation - unanticipated but legal uses that will benefit consumers.

I am a law-abiding consumer who believes that piracy should be prevented and prosecuted. However, if theoretical prevention comes at the cost of prohibiting me from making legal, personal use of my content, then the FCC should be working to protect all consumers rather than enable those who would restrict consumer rights. In the case of the broadcast flag, it seems that it will have little effect on piracy. With file-sharing networks, a TV program has only to be cracked once, and it will propagate rapidly across the Internet. So, while I may be required to purchased consumer electronic devices that cost more and allow me to do less, piracy will not be diminished.

All I want is to be able to continue to use demonstrated grandfathered rights to convert music/data/video/ etc from one content storage format to another, that should include formats that come into being in the future as well.

Consider how media technology is working today. Consumers purchased wax cylinders and appropriate cylinder players, and enjoyed the (music) contents of the cylinders. 78 RPM recordings as well. Then, when the technology produced the newer/better/cheaper/faster mechanisms (which the consumer made possible and made popular by consumer demand) we consumers converted the contents of our cylinders and 78s into wire recordings, then magnetic tapes (8 tracks/Reel to Reel/Cassette), then Compact Disk and currently into Ogg/ FLAC (and other) digital data formats.

The issue of copyright has always, heretofore allowed us to transpose from one storage medium to the next to the next.

Today, several efforts (DMCA and the broadcast flag) want to stop the conversion between storage formats, totally against the trend already established.

Look at the Disney angle: Who owns Betamax versions of Disney movies? (Yes, they definitely existed!) Hint: everytime someone produces a new machine, it is never forced upon the consumer by the creators of the media; in fact, it is the consumer which ultimately decides which machine gets their \$\$.

We consumers are the entity which causes the market for the new machines to exist: We already vetoed 8- Tracks and BetaMax, and did so despite these formats

having technical performance superior (in their heyday) to the competing mediums which were then concurrently produced along side these formats. We chose the new format as the format came to be, we purchased our machines and the market for the content subsequently came to be. In other words, we demanded the content by purchasing the machinery.

So when a new machine arrives on the scene, Disney simply waits and when the winner is evident, Disney gets into remarketing their archives in the newer format, gaining an instant return to profitability (as they well know: 8mm film -> Beta -> VHS -> DVD transpositions all worked well for them).

Now don't get me wrong, I appreciate that content creators such as Disney want to protect their investment (archives of copyrighted materials) from relentless and flawless digital cloning, but efforts to kill our grandfathered ability to translate our legally acquired music/videos into newer formats are efforts that should not be left unchecked. They never really cared much about media conversion before, why is the digital age freaking them out?

In closing, I urge you to require the content industry to demonstrate that its proposed technologies will allow for all legal uses and will actually achieve the stated goal of preventing piracy. If they cannot, I urge you not to mandate the broadcast flag.